

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Criminal Identification Act is amended by changing Section 5.2 as follows:

(20 ILCS 2630/5.2)

Sec. 5.2. Expungement, sealing, and immediate sealing.

(a) General Provisions.

(1) Definitions. In this Act, words and phrases have the meanings set forth in this subsection, except when a particular context clearly requires a different meaning.

(A) The following terms shall have the meanings ascribed to them in the Unified Code of Corrections, 730 ILCS 5/5-1-2 through 5/5-1-22:

- (i) Business Offense (730 ILCS 5/5-1-2),
- (ii) Charge (730 ILCS 5/5-1-3),
- (iii) Court (730 ILCS 5/5-1-6),
- (iv) Defendant (730 ILCS 5/5-1-7),
- (v) Felony (730 ILCS 5/5-1-9),
- (vi) Imprisonment (730 ILCS 5/5-1-10),
- (vii) Judgment (730 ILCS 5/5-1-12),
- (viii) Misdemeanor (730 ILCS 5/5-1-14),
- (ix) Offense (730 ILCS 5/5-1-15),

- (x) Parole (730 ILCS 5/5-1-16),
- (xi) Petty Offense (730 ILCS 5/5-1-17),
- (xii) Probation (730 ILCS 5/5-1-18),
- (xiii) Sentence (730 ILCS 5/5-1-19),
- (xiv) Supervision (730 ILCS 5/5-1-21), and
- (xv) Victim (730 ILCS 5/5-1-22).

(B) As used in this Section, "charge not initiated by arrest" means a charge (as defined by 730 ILCS 5/5-1-3) brought against a defendant where the defendant is not arrested prior to or as a direct result of the charge.

(C) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. An order of supervision successfully completed by the petitioner is not a conviction. An order of qualified probation (as defined in subsection (a) (1) (J)) successfully completed by the petitioner is not a conviction. An order of supervision or an order of qualified probation that is terminated unsatisfactorily is a conviction, unless the unsatisfactory termination is reversed, vacated, or modified and the judgment of conviction, if any, is reversed or vacated.

(D) "Criminal offense" means a petty offense, business offense, misdemeanor, felony, or municipal ordinance violation (as defined in subsection (a)(1)(H)). As used in this Section, a minor traffic offense (as defined in subsection (a)(1)(G)) shall not be considered a criminal offense.

(E) "Expunge" means to physically destroy the records or return them to the petitioner and to obliterate the petitioner's name from any official index or public record, or both. Nothing in this Act shall require the physical destruction of the circuit court file, but such records relating to arrests or charges, or both, ordered expunged shall be impounded as required by subsections (d)(9)(A)(ii) and (d)(9)(B)(ii).

(F) As used in this Section, "last sentence" means the sentence, order of supervision, or order of qualified probation (as defined by subsection (a)(1)(J)), for a criminal offense (as defined by subsection (a)(1)(D)) that terminates last in time in any jurisdiction, regardless of whether the petitioner has included the criminal offense for which the sentence or order of supervision or qualified probation was imposed in his or her petition. If multiple sentences, orders of supervision, or orders of qualified probation terminate on the same day and

are last in time, they shall be collectively considered the "last sentence" regardless of whether they were ordered to run concurrently.

(G) "Minor traffic offense" means a petty offense, business offense, or Class C misdemeanor under the Illinois Vehicle Code or a similar provision of a municipal or local ordinance.

(G-5) "Minor Cannabis Offense" means a violation of Section 4 or 5 of the Cannabis Control Act concerning not more than 30 grams of any substance containing cannabis, provided the violation did not include a penalty enhancement under Section 7 of the Cannabis Control Act and is not associated with an arrest, conviction or other disposition for a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.

(H) "Municipal ordinance violation" means an offense defined by a municipal or local ordinance that is criminal in nature and with which the petitioner was charged or for which the petitioner was arrested and released without charging.

(I) "Petitioner" means an adult or a minor prosecuted as an adult who has applied for relief under this Section.

(J) "Qualified probation" means an order of probation under Section 10 of the Cannabis Control

Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections, Section 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as those provisions existed before their deletion by Public Act 89-313), Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Substance Use Disorder Act, or Section 10 of the Steroid Control Act. For the purpose of this Section, "successful completion" of an order of qualified probation under Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act and Section 40-10 of the Substance Use Disorder Act means that the probation was terminated satisfactorily and the judgment of conviction was vacated.

(K) "Seal" means to physically and electronically maintain the records, unless the records would otherwise be destroyed due to age, but to make the records unavailable without a court order, subject to the exceptions in Sections 12 and 13 of this Act. The petitioner's name shall also be obliterated from the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but any index issued by the circuit court clerk before the entry of the order to seal shall not be

affected.

(L) "Sexual offense committed against a minor" includes, but is not limited to, the offenses of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.

(M) "Terminate" as it relates to a sentence or order of supervision or qualified probation includes either satisfactory or unsatisfactory termination of the sentence, unless otherwise specified in this Section. A sentence is terminated notwithstanding any outstanding financial legal obligation.

(2) Minor Traffic Offenses. Orders of supervision or convictions for minor traffic offenses shall not affect a petitioner's eligibility to expunge or seal records pursuant to this Section.

(2.5) Commencing 180 days after July 29, 2016 (the effective date of Public Act 99-697), the law enforcement agency issuing the citation shall automatically expunge, on or before January 1 and July 1 of each year, the law enforcement records of a person found to have committed a civil law violation of subsection (a) of Section 4 of the Cannabis Control Act or subsection (c) of Section 3.5 of the Drug Paraphernalia Control Act in the law enforcement agency's possession or control and which contains the final satisfactory disposition which pertain to the person

issued a citation for that offense. The law enforcement agency shall provide by rule the process for access, review, and to confirm the automatic expungement by the law enforcement agency issuing the citation. Commencing 180 days after July 29, 2016 (the effective date of Public Act 99-697), the clerk of the circuit court shall expunge, upon order of the court, or in the absence of a court order on or before January 1 and July 1 of each year, the court records of a person found in the circuit court to have committed a civil law violation of subsection (a) of Section 4 of the Cannabis Control Act or subsection (c) of Section 3.5 of the Drug Paraphernalia Control Act in the clerk's possession or control and which contains the final satisfactory disposition which pertain to the person issued a citation for any of those offenses.

(3) Exclusions. Except as otherwise provided in subsections (b) (5), (b) (6), (b) (8), (e), (e-5), and (e-6) of this Section, the court shall not order:

(A) the sealing or expungement of the records of arrests or charges not initiated by arrest that result in an order of supervision for or conviction of: (i) any sexual offense committed against a minor; (ii) Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; or (iii) Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, unless the

arrest or charge is for a misdemeanor violation of subsection (a) of Section 11-503 or a similar provision of a local ordinance, that occurred prior to the offender reaching the age of 25 years and the offender has no other conviction for violating Section 11-501 or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(B) the sealing or expungement of records of minor traffic offenses (as defined in subsection (a)(1)(G)), unless the petitioner was arrested and released without charging.

(C) the sealing of the records of arrests or charges not initiated by arrest which result in an order of supervision or a conviction for the following offenses:

(i) offenses included in Article 11 of the Criminal Code of 1961 or the Criminal Code of 2012 or a similar provision of a local ordinance, except Section 11-14 and a misdemeanor violation of Section 11-30 of the Criminal Code of 1961 or the Criminal Code of 2012, or a similar provision of a local ordinance;

(ii) Section 11-1.50, 12-3.4, 12-15, 12-30, 26-5, or 48-1 of the Criminal Code of 1961 or the Criminal Code of 2012, or a similar provision of a local ordinance;

(iii) Sections 12-3.1 or 12-3.2 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 125 of the Stalking No Contact Order Act, or Section 219 of the Civil No Contact Order Act, or a similar provision of a local ordinance;

(iv) Class A misdemeanors or felony offenses under the Humane Care for Animals Act; or

(v) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

(D) (blank).

(b) Expungement.

(1) A petitioner may petition the circuit court to expunge the records of his or her arrests and charges not initiated by arrest when each arrest or charge not initiated by arrest sought to be expunged resulted in: (i) acquittal, dismissal, or the petitioner's release without charging, unless excluded by subsection (a)(3)(B); (ii) a conviction which was vacated or reversed, unless excluded by subsection (a)(3)(B); (iii) an order of supervision and such supervision was successfully completed by the petitioner, unless excluded by subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of qualified probation (as defined in subsection (a)(1)(J)) and such probation was successfully completed by the petitioner.

(1.5) When a petitioner seeks to have a record of arrest expunged under this Section, and the offender has been convicted of a criminal offense, the State's Attorney may object to the expungement on the grounds that the records contain specific relevant information aside from the mere fact of the arrest.

(2) Time frame for filing a petition to expunge.

(A) When the arrest or charge not initiated by arrest sought to be expunged resulted in an acquittal, dismissal, the petitioner's release without charging, or the reversal or vacation of a conviction, there is no waiting period to petition for the expungement of such records.

(B) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of supervision, successfully completed by the petitioner, the following time frames will apply:

(i) Those arrests or charges that resulted in orders of supervision under Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance, or under Section 11-1.50, 12-3.2, or 12-15 of the Criminal Code of 1961 or the Criminal Code of 2012, or a similar provision of a local ordinance, shall not be eligible for expungement until 5 years have passed following the satisfactory termination of

the supervision.

(i-5) Those arrests or charges that resulted in orders of supervision for a misdemeanor violation of subsection (a) of Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, that occurred prior to the offender reaching the age of 25 years and the offender has no other conviction for violating Section 11-501 or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance shall not be eligible for expungement until the petitioner has reached the age of 25 years.

(ii) Those arrests or charges that resulted in orders of supervision for any other offenses shall not be eligible for expungement until 2 years have passed following the satisfactory termination of the supervision.

(C) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of qualified probation, successfully completed by the petitioner, such records shall not be eligible for expungement until 5 years have passed following the satisfactory termination of the probation.

(3) Those records maintained by the Department for persons arrested prior to their 17th birthday shall be expunged as provided in Section 5-915 of the Juvenile

Court Act of 1987.

(4) Whenever a person has been arrested for or convicted of any offense, in the name of a person whose identity he or she has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his or her identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the Chief Judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his or her name from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the circuit court clerk shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing in this Section shall limit the Department of State Police or

other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used.

(5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse, the victim of that offense may request that the State's Attorney of the county in which the conviction occurred file a verified petition with the presiding trial judge at the petitioner's trial to have a court order entered to seal the records of the circuit court clerk in connection with the proceedings of the trial court concerning that offense. However, the records of the arresting authority and the Department of State Police concerning the offense shall not be sealed. The court, upon good cause shown, shall make the records of the circuit court clerk in connection with the proceedings of the trial court concerning the offense available for public inspection.

(6) If a conviction has been set aside on direct review or on collateral attack and the court determines by clear and convincing evidence that the petitioner was factually innocent of the charge, the court that finds the petitioner factually innocent of the charge shall enter an expungement order for the conviction for which the petitioner has been determined to be innocent as provided

in subsection (b) of Section 5-5-4 of the Unified Code of Corrections.

(7) Nothing in this Section shall prevent the Department of State Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961 or the Criminal Code of 2012, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Substance Use Disorder Act, or Section 10 of the Steroid Control Act.

(8) If the petitioner has been granted a certificate of innocence under Section 2-702 of the Code of Civil Procedure, the court that grants the certificate of innocence shall also enter an order expunging the conviction for which the petitioner has been determined to be innocent as provided in subsection (h) of Section 2-702 of the Code of Civil Procedure.

(c) Sealing.

(1) Applicability. Notwithstanding any other provision of this Act to the contrary, and cumulative with any

rights to expungement of criminal records, this subsection authorizes the sealing of criminal records of adults and of minors prosecuted as adults. Subsection (g) of this Section provides for immediate sealing of certain records.

(2) Eligible Records. The following records may be sealed:

(A) All arrests resulting in release without charging;

(B) Arrests or charges not initiated by arrest resulting in acquittal, dismissal, or conviction when the conviction was reversed or vacated, except as excluded by subsection (a) (3) (B);

(C) Arrests or charges not initiated by arrest resulting in orders of supervision, including orders of supervision for municipal ordinance violations, successfully completed by the petitioner, unless excluded by subsection (a) (3);

(D) Arrests or charges not initiated by arrest resulting in convictions, including convictions on municipal ordinance violations, unless excluded by subsection (a) (3);

(E) Arrests or charges not initiated by arrest resulting in orders of first offender probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection

Act, or Section 5-6-3.3 of the Unified Code of Corrections; and

(F) Arrests or charges not initiated by arrest resulting in felony convictions unless otherwise excluded by subsection (a) paragraph (3) of this Section.

(3) When Records Are Eligible to Be Sealed. Records identified as eligible under subsection (c)(2) may be sealed as follows:

(A) Records identified as eligible under subsection (c)(2)(A) and (c)(2)(B) may be sealed at any time.

(B) Except as otherwise provided in subparagraph (E) of this paragraph (3), records identified as eligible under subsection (c)(2)(C) may be sealed 2 years after the termination of petitioner's last sentence (as defined in subsection (a)(1)(F)).

(C) Except as otherwise provided in subparagraph (E) of this paragraph (3), records identified as eligible under subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be sealed 3 years after the termination of the petitioner's last sentence (as defined in subsection (a)(1)(F)). Convictions requiring public registration under the Arsonist Registration Act, the Sex Offender Registration Act, or the Murderer and Violent Offender Against Youth Registration Act may

not be sealed until the petitioner is no longer required to register under that relevant Act.

(D) Records identified in subsection (a) (3) (A) (iii) may be sealed after the petitioner has reached the age of 25 years.

(E) Records identified as eligible under subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or (c) (2) (F) may be sealed upon termination of the petitioner's last sentence if the petitioner earned a high school diploma, associate's degree, career certificate, vocational technical certification, or bachelor's degree, or passed the high school level Test of General Educational Development, during the period of his or her sentence or mandatory supervised release. This subparagraph shall apply only to a petitioner who has not completed the same educational goal prior to the period of his or her sentence or mandatory supervised release. If a petition for sealing eligible records filed under this subparagraph is denied by the court, the time periods under subparagraph (B) or (C) shall apply to any subsequent petition for sealing filed by the petitioner.

(4) Subsequent felony convictions. A person may not have subsequent felony conviction records sealed as provided in this subsection (c) if he or she is convicted of any felony offense after the date of the sealing of

prior felony convictions as provided in this subsection (c). The court may, upon conviction for a subsequent felony offense, order the unsealing of prior felony conviction records previously ordered sealed by the court.

(5) Notice of eligibility for sealing. Upon entry of a disposition for an eligible record under this subsection (c), the petitioner shall be informed by the court of the right to have the records sealed and the procedures for the sealing of the records.

(d) Procedure. The following procedures apply to expungement under subsections (b), (e), and (e-6) and sealing under subsections (c) and (e-5):

(1) Filing the petition. Upon becoming eligible to petition for the expungement or sealing of records under this Section, the petitioner shall file a petition requesting the expungement or sealing of records with the clerk of the court where the arrests occurred or the charges were brought, or both. If arrests occurred or charges were brought in multiple jurisdictions, a petition must be filed in each such jurisdiction. The petitioner shall pay the applicable fee, except no fee shall be required if the petitioner has obtained a court order waiving fees under Supreme Court Rule 298 or it is otherwise waived.

(1.5) County fee waiver pilot program. From August 9, 2019 (the effective date of Public Act 101-306) through

December 31, 2020, in a county of 3,000,000 or more inhabitants, no fee shall be required to be paid by a petitioner if the records sought to be expunged or sealed were arrests resulting in release without charging or arrests or charges not initiated by arrest resulting in acquittal, dismissal, or conviction when the conviction was reversed or vacated, unless excluded by subsection (a)(3)(B). The provisions of this paragraph (1.5), other than this sentence, are inoperative on and after January 1, 2022.

(2) Contents of petition. The petition shall be verified and shall contain the petitioner's name, date of birth, current address and, for each arrest or charge not initiated by arrest sought to be sealed or expunged, the case number, the date of arrest (if any), the identity of the arresting authority, and such other information as the court may require. During the pendency of the proceeding, the petitioner shall promptly notify the circuit court clerk of any change of his or her address. If the petitioner has received a certificate of eligibility for sealing from the Prisoner Review Board under paragraph (10) of subsection (a) of Section 3-3-2 of the Unified Code of Corrections, the certificate shall be attached to the petition.

(3) Drug test. The petitioner must attach to the petition proof that the petitioner has passed a test taken

within 30 days before the filing of the petition showing the absence within his or her body of all illegal substances as defined by the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, and the Cannabis Control Act if he or she is petitioning to:

(A) seal felony records under clause (c) (2) (E);

(B) seal felony records for a violation of the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act under clause (c) (2) (F);

(C) seal felony records under subsection (e-5); or

(D) expunge felony records of a qualified probation under clause (b) (1) (iv).

(4) Service of petition. The circuit court clerk shall promptly serve a copy of the petition and documentation to support the petition under subsection (e-5) or (e-6) on the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest.

(5) Objections.

(A) Any party entitled to notice of the petition may file an objection to the petition. All objections shall be in writing, shall be filed with the circuit court clerk, and shall state with specificity the

basis of the objection. Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, an objection to the petition may not be filed.

(B) Objections to a petition to expunge or seal must be filed within 60 days of the date of service of the petition.

(6) Entry of order.

(A) The Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the petitioner's trial, if any, shall rule on the petition to expunge or seal as set forth in this subsection (d) (6).

(B) Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency, or the chief legal officer files an objection to the petition to expunge or seal within 60 days from the date of service of the petition, the court shall enter an order granting or denying the petition.

(C) Notwithstanding any other provision of law, the court shall not deny a petition for sealing under this Section because the petitioner has not satisfied an outstanding legal financial obligation established, imposed, or originated by a court, law enforcement

agency, or a municipal, State, county, or other unit of local government, including, but not limited to, any cost, assessment, fine, or fee. An outstanding legal financial obligation does not include any court ordered restitution to a victim under Section 5-5-6 of the Unified Code of Corrections, unless the restitution has been converted to a civil judgment. Nothing in this subparagraph (C) waives, rescinds, or abrogates a legal financial obligation or otherwise eliminates or affects the right of the holder of any financial obligation to pursue collection under applicable federal, State, or local law.

(7) Hearings. If an objection is filed, the court shall set a date for a hearing and notify the petitioner and all parties entitled to notice of the petition of the hearing date at least 30 days prior to the hearing. Prior to the hearing, the State's Attorney shall consult with the Department as to the appropriateness of the relief sought in the petition to expunge or seal. At the hearing, the court shall hear evidence on whether the petition should or should not be granted, and shall grant or deny the petition to expunge or seal the records based on the evidence presented at the hearing. The court may consider the following:

(A) the strength of the evidence supporting the defendant's conviction;

(B) the reasons for retention of the conviction records by the State;

(C) the petitioner's age, criminal record history, and employment history;

(D) the period of time between the petitioner's arrest on the charge resulting in the conviction and the filing of the petition under this Section; and

(E) the specific adverse consequences the petitioner may be subject to if the petition is denied.

(8) Service of order. After entering an order to expunge or seal records, the court must provide copies of the order to the Department, in a form and manner prescribed by the Department, to the petitioner, to the State's Attorney or prosecutor charged with the duty of prosecuting the offense, to the arresting agency, to the chief legal officer of the unit of local government effecting the arrest, and to such other criminal justice agencies as may be ordered by the court.

(9) Implementation of order.

(A) Upon entry of an order to expunge records pursuant to (b) (2) (A) or (b) (2) (B) (ii), or both:

(i) the records shall be expunged (as defined in subsection (a) (1) (E)) by the arresting agency, the Department, and any other agency as ordered by the court, within 60 days of the date of service of

the order, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order; and

(iii) in response to an inquiry for expunged records, the court, the Department, or the agency receiving such inquiry, shall reply as it does in response to inquiries when no records ever existed.

(B) Upon entry of an order to expunge records pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

(i) the records shall be expunged (as defined in subsection (a) (1) (E)) by the arresting agency and any other agency as ordered by the court, within 60 days of the date of service of the order, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order;

(iii) the records shall be impounded by the Department within 60 days of the date of service of the order as ordered by the court, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(iv) records impounded by the Department may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony, and to the Department of Corrections upon conviction for any offense; and

(v) in response to an inquiry for such records from anyone not authorized by law to access such records, the court, the Department, or the agency receiving such inquiry shall reply as it does in

response to inquiries when no records ever existed.

(B-5) Upon entry of an order to expunge records under subsection (e-6):

(i) the records shall be expunged (as defined in subsection (a) (1) (E)) by the arresting agency and any other agency as ordered by the court, within 60 days of the date of service of the order, unless a motion to vacate, modify, or reconsider the order is filed under paragraph (12) of subsection (d) of this Section;

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order;

(iii) the records shall be impounded by the Department within 60 days of the date of service of the order as ordered by the court, unless a motion to vacate, modify, or reconsider the order is filed under paragraph (12) of subsection (d) of this Section;

(iv) records impounded by the Department may

be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony, and to the Department of Corrections upon conviction for any offense; and

(v) in response to an inquiry for these records from anyone not authorized by law to access the records, the court, the Department, or the agency receiving the inquiry shall reply as it does in response to inquiries when no records ever existed.

(C) Upon entry of an order to seal records under subsection (c), the arresting agency, any other agency as ordered by the court, the Department, and the court shall seal the records (as defined in subsection (a)(1)(K)). In response to an inquiry for such records, from anyone not authorized by law to access such records, the court, the Department, or the agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed.

(D) The Department shall send written notice to the petitioner of its compliance with each order to expunge or seal records within 60 days of the date of service of that order or, if a motion to vacate,

modify, or reconsider is filed, within 60 days of service of the order resolving the motion, if that order requires the Department to expunge or seal records. In the event of an appeal from the circuit court order, the Department shall send written notice to the petitioner of its compliance with an Appellate Court or Supreme Court judgment to expunge or seal records within 60 days of the issuance of the court's mandate. The notice is not required while any motion to vacate, modify, or reconsider, or any appeal or petition for discretionary appellate review, is pending.

(E) Upon motion, the court may order that a sealed judgment or other court record necessary to demonstrate the amount of any legal financial obligation due and owing be made available for the limited purpose of collecting any legal financial obligations owed by the petitioner that were established, imposed, or originated in the criminal proceeding for which those records have been sealed. The records made available under this subparagraph (E) shall not be entered into the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act and shall be immediately re-impounded upon the collection of the outstanding financial obligations.

(F) Notwithstanding any other provision of this Section, a circuit court clerk may access a sealed record for the limited purpose of collecting payment for any legal financial obligations that were established, imposed, or originated in the criminal proceedings for which those records have been sealed.

(10) Fees. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal records. Notwithstanding any provision of the Clerks of Courts Act to the contrary, the circuit court clerk may charge a fee equivalent to the cost associated with the sealing or expungement of records by the circuit court clerk. From the total filing fee collected for the petition to seal or expunge, the circuit court clerk shall deposit \$10 into the Circuit Court Clerk Operation and Administrative Fund, to be used to offset the costs incurred by the circuit court clerk in performing the additional duties required to serve the petition to seal or expunge on all parties. The circuit court clerk shall collect and forward the Department of State Police portion of the fee to the Department and it shall be deposited in the State Police Services Fund. If the record brought under an expungement petition was previously sealed under this Section, the fee for the expungement petition for that same record shall be waived.

(11) Final Order. No court order issued under the

expungement or sealing provisions of this Section shall become final for purposes of appeal until 30 days after service of the order on the petitioner and all parties entitled to notice of the petition.

(12) Motion to Vacate, Modify, or Reconsider. Under Section 2-1203 of the Code of Civil Procedure, the petitioner or any party entitled to notice may file a motion to vacate, modify, or reconsider the order granting or denying the petition to expunge or seal within 60 days of service of the order. If filed more than 60 days after service of the order, a petition to vacate, modify, or reconsider shall comply with subsection (c) of Section 2-1401 of the Code of Civil Procedure. Upon filing of a motion to vacate, modify, or reconsider, notice of the motion shall be served upon the petitioner and all parties entitled to notice of the petition.

(13) Effect of Order. An order granting a petition under the expungement or sealing provisions of this Section shall not be considered void because it fails to comply with the provisions of this Section or because of any error asserted in a motion to vacate, modify, or reconsider. The circuit court retains jurisdiction to determine whether the order is voidable and to vacate, modify, or reconsider its terms based on a motion filed under paragraph (12) of this subsection (d).

(14) Compliance with Order Granting Petition to Seal

Records. Unless a court has entered a stay of an order granting a petition to seal, all parties entitled to notice of the petition must fully comply with the terms of the order within 60 days of service of the order even if a party is seeking relief from the order through a motion filed under paragraph (12) of this subsection (d) or is appealing the order.

(15) Compliance with Order Granting Petition to Expunge Records. While a party is seeking relief from the order granting the petition to expunge through a motion filed under paragraph (12) of this subsection (d) or is appealing the order, and unless a court has entered a stay of that order, the parties entitled to notice of the petition must seal, but need not expunge, the records until there is a final order on the motion for relief or, in the case of an appeal, the issuance of that court's mandate.

(16) The changes to this subsection (d) made by Public Act 98-163 apply to all petitions pending on August 5, 2013 (the effective date of Public Act 98-163) and to all orders ruling on a petition to expunge or seal on or after August 5, 2013 (the effective date of Public Act 98-163).

(e) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he or she may, upon verified petition to the Chief Judge of the circuit where the person had been

convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the circuit court clerk and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he or she had been pardoned but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of expungement, the circuit court clerk shall promptly mail a copy of the order to the person who was pardoned.

(e-5) Whenever a person who has been convicted of an offense is granted a certificate of eligibility for sealing by the Prisoner Review Board which specifically authorizes

sealing, he or she may, upon verified petition to the Chief Judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the petitioner's trial, have a court order entered sealing the record of arrest from the official records of the arresting authority and order that the records of the circuit court clerk and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the petitioner obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he or she had been granted the certificate but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only as required by this Act or to the arresting authority, a law enforcement agency, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of sealing, the circuit court clerk shall promptly mail a copy of the order to the person who was granted the certificate of eligibility for

sealing.

(e-6) Whenever a person who has been convicted of an offense is granted a certificate of eligibility for expungement by the Prisoner Review Board which specifically authorizes expungement, he or she may, upon verified petition to the Chief Judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the petitioner's trial, have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the circuit court clerk and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the petitioner obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he or she had been granted the certificate but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only as required by this Act or to the arresting authority, a law enforcement agency, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of

Corrections shall have access to all expunged records of the Department pertaining to that individual. Upon entry of the order of expungement, the circuit court clerk shall promptly mail a copy of the order to the person who was granted the certificate of eligibility for expungement.

(f) Subject to available funding, the Illinois Department of Corrections shall conduct a study of the impact of sealing, especially on employment and recidivism rates, utilizing a random sample of those who apply for the sealing of their criminal records under Public Act 93-211. At the request of the Illinois Department of Corrections, records of the Illinois Department of Employment Security shall be utilized as appropriate to assist in the study. The study shall not disclose any data in a manner that would allow the identification of any particular individual or employing unit. The study shall be made available to the General Assembly no later than September 1, 2010.

(g) Immediate Sealing.

(1) Applicability. Notwithstanding any other provision of this Act to the contrary, and cumulative with any rights to expungement or sealing of criminal records, this subsection authorizes the immediate sealing of criminal records of adults and of minors prosecuted as adults.

(2) Eligible Records. Arrests or charges not initiated by arrest resulting in acquittal or dismissal with prejudice, except as excluded by subsection (a)(3)(B),

that occur on or after January 1, 2018 (the effective date of Public Act 100-282), may be sealed immediately if the petition is filed with the circuit court clerk on the same day and during the same hearing in which the case is disposed.

(3) When Records are Eligible to be Immediately Sealed. Eligible records under paragraph (2) of this subsection (g) may be sealed immediately after entry of the final disposition of a case, notwithstanding the disposition of other charges in the same case.

(4) Notice of Eligibility for Immediate Sealing. Upon entry of a disposition for an eligible record under this subsection (g), the defendant shall be informed by the court of his or her right to have eligible records immediately sealed and the procedure for the immediate sealing of these records.

(5) Procedure. The following procedures apply to immediate sealing under this subsection (g).

(A) Filing the Petition. Upon entry of the final disposition of the case, the defendant's attorney may immediately petition the court, on behalf of the defendant, for immediate sealing of eligible records under paragraph (2) of this subsection (g) that are entered on or after January 1, 2018 (the effective date of Public Act 100-282). The immediate sealing petition may be filed with the circuit court clerk

during the hearing in which the final disposition of the case is entered. If the defendant's attorney does not file the petition for immediate sealing during the hearing, the defendant may file a petition for sealing at any time as authorized under subsection (c) (3) (A).

(B) Contents of Petition. The immediate sealing petition shall be verified and shall contain the petitioner's name, date of birth, current address, and for each eligible record, the case number, the date of arrest if applicable, the identity of the arresting authority if applicable, and other information as the court may require.

(C) Drug Test. The petitioner shall not be required to attach proof that he or she has passed a drug test.

(D) Service of Petition. A copy of the petition shall be served on the State's Attorney in open court. The petitioner shall not be required to serve a copy of the petition on any other agency.

(E) Entry of Order. The presiding trial judge shall enter an order granting or denying the petition for immediate sealing during the hearing in which it is filed. Petitions for immediate sealing shall be ruled on in the same hearing in which the final disposition of the case is entered.

(F) Hearings. The court shall hear the petition

for immediate sealing on the same day and during the same hearing in which the disposition is rendered.

(G) Service of Order. An order to immediately seal eligible records shall be served in conformance with subsection (d) (8).

(H) Implementation of Order. An order to immediately seal records shall be implemented in conformance with subsections (d) (9) (C) and (d) (9) (D).

(I) Fees. The fee imposed by the circuit court clerk and the Department of State Police shall comply with paragraph (1) of subsection (d) of this Section.

(J) Final Order. No court order issued under this subsection (g) shall become final for purposes of appeal until 30 days after service of the order on the petitioner and all parties entitled to service of the order in conformance with subsection (d) (8).

(K) Motion to Vacate, Modify, or Reconsider. Under Section 2-1203 of the Code of Civil Procedure, the petitioner, State's Attorney, or the Department of State Police may file a motion to vacate, modify, or reconsider the order denying the petition to immediately seal within 60 days of service of the order. If filed more than 60 days after service of the order, a petition to vacate, modify, or reconsider shall comply with subsection (c) of Section 2-1401 of the Code of Civil Procedure.

(L) Effect of Order. An order granting an immediate sealing petition shall not be considered void because it fails to comply with the provisions of this Section or because of an error asserted in a motion to vacate, modify, or reconsider. The circuit court retains jurisdiction to determine whether the order is voidable, and to vacate, modify, or reconsider its terms based on a motion filed under subparagraph (L) of this subsection (g).

(M) Compliance with Order Granting Petition to Seal Records. Unless a court has entered a stay of an order granting a petition to immediately seal, all parties entitled to service of the order must fully comply with the terms of the order within 60 days of service of the order.

(h) Sealing; trafficking victims.

(1) A trafficking victim as defined by paragraph (10) of subsection (a) of Section 10-9 of the Criminal Code of 2012 shall be eligible to petition for immediate sealing of his or her criminal record upon the completion of his or her last sentence if his or her participation in the underlying offense was a direct result of human trafficking under Section 10-9 of the Criminal Code of 2012 or a severe form of trafficking under the federal Trafficking Victims Protection Act.

(2) A petitioner under this subsection (h), in

addition to the requirements provided under paragraph (4) of subsection (d) of this Section, shall include in his or her petition a clear and concise statement that: (A) he or she was a victim of human trafficking at the time of the offense; and (B) that his or her participation in the offense was a direct result of human trafficking under Section 10-9 of the Criminal Code of 2012 or a severe form of trafficking under the federal Trafficking Victims Protection Act.

(3) If an objection is filed alleging that the petitioner is not entitled to immediate sealing under this subsection (h), the court shall conduct a hearing under paragraph (7) of subsection (d) of this Section and the court shall determine whether the petitioner is entitled to immediate sealing under this subsection (h). A petitioner is eligible for immediate relief under this subsection (h) if he or she shows, by a preponderance of the evidence, that: (A) he or she was a victim of human trafficking at the time of the offense; and (B) that his or her participation in the offense was a direct result of human trafficking under Section 10-9 of the Criminal Code of 2012 or a severe form of trafficking under the federal Trafficking Victims Protection Act.

(i) Minor Cannabis Offenses under the Cannabis Control Act.

(1) Expungement of Arrest Records of Minor Cannabis

Offenses.

(A) The Department of State Police and all law enforcement agencies within the State shall automatically expunge all criminal history records of an arrest, charge not initiated by arrest, order of supervision, or order of qualified probation for a Minor Cannabis Offense committed prior to June 25, 2019 (the effective date of Public Act 101-27) if:

(i) One year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and

(ii) No criminal charges were filed relating to the arrest or law enforcement interaction or criminal charges were filed and subsequently dismissed or vacated or the arrestee was acquitted.

(B) If the law enforcement agency is unable to verify satisfaction of condition (ii) in paragraph (A), records that satisfy condition (i) in paragraph (A) shall be automatically expunged.

(C) Records shall be expunged by the law enforcement agency under the following timelines:

(i) Records created prior to June 25, 2019 (the effective date of Public Act 101-27), but on or after January 1, 2013, shall be automatically expunged prior to January 1, 2021;

(ii) Records created prior to January 1, 2013, but on or after January 1, 2000, shall be automatically expunged prior to January 1, 2023;

(iii) Records created prior to January 1, 2000 shall be automatically expunged prior to January 1, 2025.

In response to an inquiry for expunged records, the law enforcement agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed; however, it shall provide a certificate of disposition or confirmation that the record was expunged to the individual whose record was expunged if such a record exists.

(D) Nothing in this Section shall be construed to restrict or modify an individual's right to have that individual's records expunged except as otherwise may be provided in this Act, or diminish or abrogate any rights or remedies otherwise available to the individual.

(2) Pardons Authorizing Expungement of Minor Cannabis Offenses.

(A) Upon June 25, 2019 (the effective date of Public Act 101-27), the Department of State Police shall review all criminal history record information and identify all records that meet all of the following criteria:

(i) one or more convictions for a Minor Cannabis Offense;

(ii) the conviction identified in paragraph (2) (A) (i) did not include a penalty enhancement under Section 7 of the Cannabis Control Act; and

(iii) the conviction identified in paragraph (2) (A) (i) is not associated with a conviction for a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.

(B) Within 180 days after June 25, 2019 (the effective date of Public Act 101-27), the Department of State Police shall notify the Prisoner Review Board of all such records that meet the criteria established in paragraph (2) (A).

(i) The Prisoner Review Board shall notify the State's Attorney of the county of conviction of each record identified by State Police in paragraph (2) (A) that is classified as a Class 4 felony. The State's Attorney may provide a written objection to the Prisoner Review Board on the sole basis that the record identified does not meet the criteria established in paragraph (2) (A). Such an objection must be filed within 60 days or by such later date set by the Prisoner Review Board in the notice after the State's Attorney received notice

from the Prisoner Review Board.

(ii) In response to a written objection from a State's Attorney, the Prisoner Review Board is authorized to conduct a non-public hearing to evaluate the information provided in the objection.

(iii) The Prisoner Review Board shall make a confidential and privileged recommendation to the Governor as to whether to grant a pardon authorizing expungement for each of the records identified by the Department of State Police as described in paragraph (2) (A).

(C) If an individual has been granted a pardon authorizing expungement as described in this Section, the Prisoner Review Board, through the Attorney General, shall file a petition for expungement with the Chief Judge of the circuit or any judge of the circuit designated by the Chief Judge where the individual had been convicted. Such petition may include more than one individual. Whenever an individual who has been convicted of an offense is granted a pardon by the Governor that specifically authorizes expungement, an objection to the petition may not be filed. Petitions to expunge under this subsection (i) may include more than one individual. Within 90 days of the filing of such a petition, the

court shall enter an order expunging the records of arrest from the official records of the arresting authority and order that the records of the circuit court clerk and the Department of State Police be expunged and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which the individual had received a pardon but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Upon entry of the order of expungement, the circuit court clerk shall promptly provide a copy of the order and a certificate of disposition to the individual who was pardoned to the individual's last known address or by electronic means (if available) or otherwise make it available to the individual upon request.

(D) Nothing in this Section is intended to diminish or abrogate any rights or remedies otherwise available to the individual.

(3) Any individual may file a motion to vacate and expunge a conviction for a misdemeanor or Class 4 felony violation of Section 4 or Section 5 of the Cannabis Control Act. Motions to vacate and expunge under this subsection (i) may be filed with the circuit court, Chief

Judge of a judicial circuit or any judge of the circuit designated by the Chief Judge. The circuit court clerk shall promptly serve a copy of the motion to vacate and expunge, and any supporting documentation, on the State's Attorney or prosecutor charged with the duty of prosecuting the offense. When considering such a motion to vacate and expunge, a court shall consider the following: the reasons to retain the records provided by law enforcement, the petitioner's age, the petitioner's age at the time of offense, the time since the conviction, and the specific adverse consequences if denied. An individual may file such a petition after the completion of any non-financial sentence or non-financial condition imposed by the conviction. Within 60 days of the filing of such motion, a State's Attorney may file an objection to such a petition along with supporting evidence. If a motion to vacate and expunge is granted, the records shall be expunged in accordance with subparagraphs (d)(8) and (d)(9)(A) of this Section. An agency providing civil legal aid, as defined by Section 15 of the Public Interest Attorney Assistance Act, assisting individuals seeking to file a motion to vacate and expunge under this subsection may file motions to vacate and expunge with the Chief Judge of a judicial circuit or any judge of the circuit designated by the Chief Judge, and the motion may include more than one individual. Motions filed by an agency

providing civil legal aid concerning more than one individual may be prepared, presented, and signed electronically.

(4) Any State's Attorney may file a motion to vacate and expunge a conviction for a misdemeanor or Class 4 felony violation of Section 4 or Section 5 of the Cannabis Control Act. Motions to vacate and expunge under this subsection (i) may be filed with the circuit court, Chief Judge of a judicial circuit or any judge of the circuit designated by the Chief Judge, and may include more than one individual. Motions filed by a State's Attorney concerning more than one individual may be prepared, presented, and signed electronically. When considering such a motion to vacate and expunge, a court shall consider the following: the reasons to retain the records provided by law enforcement, the individual's age, the individual's age at the time of offense, the time since the conviction, and the specific adverse consequences if denied. Upon entry of an order granting a motion to vacate and expunge records pursuant to this Section, the State's Attorney shall notify the Prisoner Review Board within 30 days. Upon entry of the order of expungement, the circuit court clerk shall promptly provide a copy of the order and a certificate of disposition to the individual whose records will be expunged to the individual's last known address or by electronic means (if available) or otherwise

make available to the individual upon request. If a motion to vacate and expunge is granted, the records shall be expunged in accordance with subparagraphs (d)(8) and (d)(9)(A) of this Section.

(5) In the public interest, the State's Attorney of a county has standing to file motions to vacate and expunge pursuant to this Section in the circuit court with jurisdiction over the underlying conviction.

(6) If a person is arrested for a Minor Cannabis Offense as defined in this Section before June 25, 2019 (the effective date of Public Act 101-27) and the person's case is still pending but a sentence has not been imposed, the person may petition the court in which the charges are pending for an order to summarily dismiss those charges against him or her, and expunge all official records of his or her arrest, plea, trial, conviction, incarceration, supervision, or expungement. If the court determines, upon review, that: (A) the person was arrested before June 25, 2019 (the effective date of Public Act 101-27) for an offense that has been made eligible for expungement; (B) the case is pending at the time; and (C) the person has not been sentenced of the minor cannabis violation eligible for expungement under this subsection, the court shall consider the following: the reasons to retain the records provided by law enforcement, the petitioner's age, the petitioner's age at the time of offense, the time since

the conviction, and the specific adverse consequences if denied. If a motion to dismiss and expunge is granted, the records shall be expunged in accordance with subparagraph (d) (9) (A) of this Section.

(7) A person imprisoned solely as a result of one or more convictions for Minor Cannabis Offenses under this subsection (i) shall be released from incarceration upon the issuance of an order under this subsection.

(8) The Department of State Police shall allow a person to use the access and review process, established in the Department of State Police, for verifying that his or her records relating to Minor Cannabis Offenses of the Cannabis Control Act eligible under this Section have been expunged.

(9) No conviction vacated pursuant to this Section shall serve as the basis for damages for time unjustly served as provided in the Court of Claims Act.

(10) Effect of Expungement. A person's right to expunge an expungeable offense shall not be limited under this Section. The effect of an order of expungement shall be to restore the person to the status he or she occupied before the arrest, charge, or conviction.

(11) Information. The Department of State Police shall post general information on its website about the expungement process described in this subsection (i).

(j) Felony Prostitution Convictions.

(1) Any individual may file a motion to vacate and expunge a conviction for a prior Class 4 felony violation of prostitution. Motions to vacate and expunge under this subsection (j) may be filed with the circuit court, Chief Judge of a judicial circuit, or any judge of the circuit designated by the Chief Judge. When considering the motion to vacate and expunge, a court shall consider the following:

(A) the reasons to retain the records provided by law enforcement;

(B) the petitioner's age;

(C) the petitioner's age at the time of offense;
and

(D) the time since the conviction, and the specific adverse consequences if denied. An individual may file the petition after the completion of any sentence or condition imposed by the conviction. Within 60 days of the filing of the motion, a State's Attorney may file an objection to the petition along with supporting evidence. If a motion to vacate and expunge is granted, the records shall be expunged in accordance with subparagraph (d)(9)(A) of this Section. An agency providing civil legal aid, as defined in Section 15 of the Public Interest Attorney Assistance Act, assisting individuals seeking to file a motion to vacate and expunge under this subsection

may file motions to vacate and expunge with the Chief Judge of a judicial circuit or any judge of the circuit designated by the Chief Judge, and the motion may include more than one individual.

(2) Any State's Attorney may file a motion to vacate and expunge a conviction for a Class 4 felony violation of prostitution. Motions to vacate and expunge under this subsection (j) may be filed with the circuit court, Chief Judge of a judicial circuit, or any judge of the circuit court designated by the Chief Judge, and may include more than one individual. When considering the motion to vacate and expunge, a court shall consider the following reasons:

(A) the reasons to retain the records provided by law enforcement;

(B) the petitioner's age;

(C) the petitioner's age at the time of offense;

(D) the time since the conviction; and

(E) the specific adverse consequences if denied.

If the State's Attorney files a motion to vacate and expunge records for felony prostitution convictions pursuant to this Section, the State's Attorney shall notify the Prisoner Review Board within 30 days of the filing. If a motion to vacate and expunge is granted, the records shall be expunged in accordance with subparagraph (d) (9) (A) of this Section.

(3) In the public interest, the State's Attorney of a

county has standing to file motions to vacate and expunge pursuant to this Section in the circuit court with jurisdiction over the underlying conviction.

(4) The Illinois State Police shall allow a person to a use the access and review process, established in the Illinois State Police, for verifying that his or her records relating to felony prostitution eligible under this Section have been expunged.

(5) No conviction vacated pursuant to this Section shall serve as the basis for damages for time unjustly served as provided in the Court of Claims Act.

(6) Effect of Expungement. A person's right to expunge an expungeable offense shall not be limited under this Section. The effect of an order of expungement shall be to restore the person to the status he or she occupied before the arrest, charge, or conviction.

(7) Information. The Illinois State Police shall post general information on its website about the expungement process described in this subsection (j).

(Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff. 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863, eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff. 12-4-19; 101-645, eff. 6-26-20; revised 8-18-20.)

Section 10. The Code of Criminal Procedure of 1963 is amended by changing Section 122-1 as follows:

(725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

Sec. 122-1. Petition in the trial court.

(a) Any person imprisoned in the penitentiary may institute a proceeding under this Article if the person asserts that:

(1) in the proceedings which resulted in his or her conviction there was a substantial denial of his or her rights under the Constitution of the United States or of the State of Illinois or both;

(2) the death penalty was imposed and there is newly discovered evidence not available to the person at the time of the proceeding that resulted in his or her conviction that establishes a substantial basis to believe that the defendant is actually innocent by clear and convincing evidence; or

(3) (blank).

(a-5) A proceeding under paragraph (2) of subsection (a) may be commenced within a reasonable period of time after the person's conviction notwithstanding any other provisions of this Article. In such a proceeding regarding actual innocence, if the court determines the petition is frivolous or is patently without merit, it shall dismiss the petition in a written order, specifying the findings of fact and conclusions

of law it made in reaching its decision. Such order of dismissal is a final judgment and shall be served upon the petitioner by certified mail within 10 days of its entry.

(b) The proceeding shall be commenced by filing with the clerk of the court in which the conviction took place a petition (together with a copy thereof) verified by affidavit. Petitioner shall also serve another copy upon the State's Attorney by any of the methods provided in Rule 7 of the Supreme Court. The clerk shall docket the petition for consideration by the court pursuant to Section 122-2.1 upon his or her receipt thereof and bring the same promptly to the attention of the court.

(c) Except as otherwise provided in subsection (a-5), if the petitioner is under sentence of death and a petition for writ of certiorari is filed, no proceedings under this Article shall be commenced more than 6 months after the conclusion of proceedings in the United States Supreme Court, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a petition for certiorari is not filed, no proceedings under this Article shall be commenced more than 6 months from the date for filing a certiorari petition, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.

When a defendant has a sentence other than death, no proceedings under this Article shall be commenced more than 6

months after the conclusion of proceedings in the United States Supreme Court, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a petition for certiorari is not filed, no proceedings under this Article shall be commenced more than 6 months from the date for filing a certiorari petition, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a defendant does not file a direct appeal, the post-conviction petition shall be filed no later than 3 years from the date of conviction, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.

This limitation does not apply to a petition advancing a claim of actual innocence.

(d) A person seeking relief by filing a petition under this Section must specify in the petition or its heading that it is filed under this Section. A trial court that has received a petition complaining of a conviction or sentence that fails to specify in the petition or its heading that it is filed under this Section need not evaluate the petition to determine whether it could otherwise have stated some grounds for relief under this Article.

(e) A proceeding under this Article may not be commenced on behalf of a defendant who has been sentenced to death without the written consent of the defendant, unless the defendant, because of a mental or physical condition, is

incapable of asserting his or her own claim.

(f) Only one petition may be filed by a petitioner under this Article without leave of the court. Leave of court may be granted only if a petitioner demonstrates cause for his or her failure to bring the claim in his or her initial post-conviction proceedings and prejudice results from that failure. For purposes of this subsection (f): (1) a prisoner shows cause by identifying an objective factor that impeded his or her ability to raise a specific claim during his or her initial post-conviction proceedings; and (2) a prisoner shows prejudice by demonstrating that the claim not raised during his or her initial post-conviction proceedings so infected the trial that the resulting conviction or sentence violated due process.

(Source: P.A. 100-574, eff. 6-1-18; 101-411, eff. 8-16-19.)

Section 15. The Code of Civil Procedure is amended by changing Section 2-1401 as follows:

(735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

Sec. 2-1401. Relief from judgments.

(a) Relief from final orders and judgments, after 30 days from the entry thereof, may be had upon petition as provided in this Section. Writs of error coram nobis and coram vobis, bills of review and bills in the nature of bills of review are abolished. All relief heretofore obtainable and the grounds

for such relief heretofore available, whether by any of the foregoing remedies or otherwise, shall be available in every case, by proceedings hereunder, regardless of the nature of the order or judgment from which relief is sought or of the proceedings in which it was entered. Except as provided in the Illinois Parentage Act of 2015, there shall be no distinction between actions and other proceedings, statutory or otherwise, as to availability of relief, grounds for relief or the relief obtainable.

(b) The petition must be filed in the same proceeding in which the order or judgment was entered but is not a continuation thereof. The petition must be supported by affidavit or other appropriate showing as to matters not of record. A petition to reopen a foreclosure proceeding must include as parties to the petition, but is not limited to, all parties in the original action in addition to the current record title holders of the property, current occupants, and any individual or entity that had a recorded interest in the property before the filing of the petition. All parties to the petition shall be notified as provided by rule.

(b-5) A movant may present a meritorious claim under this Section if the allegations in the petition establish each of the following by a preponderance of the evidence:

- (1) the movant was convicted of a forcible felony;
- (2) the movant's participation in the offense was related to him or her previously having been a victim of

domestic violence as perpetrated by an intimate partner;

(3) no evidence of domestic violence against the movant was presented at the movant's sentencing hearing;

(4) the movant was unaware of the mitigating nature of the evidence of the domestic violence at the time of sentencing and could not have learned of its significance sooner through diligence; and

(5) the new evidence of domestic violence against the movant is material and noncumulative to other evidence offered at the sentencing hearing, and is of such a conclusive character that it would likely change the sentence imposed by the original trial court.

Nothing in this subsection (b-5) shall prevent a movant from applying for any other relief under this Section or any other law otherwise available to him or her.

As used in this subsection (b-5):

"Domestic violence" means abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Forcible felony" has the meaning ascribed to the term in Section 2-8 of the Criminal Code of 2012.

"Intimate partner" means a spouse or former spouse, persons who have or allegedly have had a child in common, or persons who have or have had a dating or engagement relationship.

(b-10) A movant may present a meritorious claim under this Section if the allegations in the petition establish each of

the following by a preponderance of the evidence:

(A) she was convicted of a forcible felony;

(B) her participation in the offense was a direct result of her suffering from post-partum depression or post-partum psychosis;

(C) no evidence of post-partum depression or post-partum psychosis was presented by a qualified medical person at trial or sentencing, or both;

(D) she was unaware of the mitigating nature of the evidence or, if aware, was at the time unable to present this defense due to suffering from post-partum depression or post-partum psychosis, or, at the time of trial or sentencing, neither was a recognized mental illness and as such, she was unable to receive proper treatment; and

(E) evidence of post-partum depression or post-partum psychosis as suffered by the person is material and noncumulative to other evidence offered at the time of trial or sentencing, and it is of such a conclusive character that it would likely change the sentence imposed by the original court.

Nothing in this subsection (b-10) prevents a person from applying for any other relief under this Article or any other law otherwise available to her.

As used in this subsection (b-10):

"Post-partum depression" means a mood disorder which strikes many women during and after pregnancy and usually

occurs during pregnancy and up to 12 months after delivery. This depression can include anxiety disorders.

"Post-partum psychosis" means an extreme form of post-partum depression which can occur during pregnancy and up to 12 months after delivery. This can include losing touch with reality, distorted thinking, delusions, auditory and visual hallucinations, paranoia, hyperactivity and rapid speech, or mania.

(c) Except as provided in Section 20b of the Adoption Act and Section 2-32 of the Juvenile Court Act of 1987 or in a petition based upon Section 116-3 of the Code of Criminal Procedure of 1963 or subsection (b-10) of this Section, or in a motion to vacate and expunge convictions under the Cannabis Control Act as provided by subsection (i) of Section 5.2 of the Criminal Identification Act, the petition must be filed not later than 2 years after the entry of the order or judgment. Time during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years.

(c-5) Any individual may at any time file a petition and institute proceedings under this Section, if his or her final order or judgment, which was entered based on a plea of guilty or nolo contendere, has potential consequences under federal immigration law.

(d) The filing of a petition under this Section does not

affect the order or judgment, or suspend its operation.

(e) Unless lack of jurisdiction affirmatively appears from the record proper, the vacation or modification of an order or judgment pursuant to the provisions of this Section does not affect the right, title or interest in or to any real or personal property of any person, not a party to the original action, acquired for value after the entry of the order or judgment but before the filing of the petition, nor affect any right of any person not a party to the original action under any certificate of sale issued before the filing of the petition, pursuant to a sale based on the order or judgment. When a petition is filed pursuant to this Section to reopen a foreclosure proceeding, notwithstanding the provisions of Section 15-1701 of this Code, the purchaser or successor purchaser of real property subject to a foreclosure sale who was not a party to the mortgage foreclosure proceedings is entitled to remain in possession of the property until the foreclosure action is defeated or the previously foreclosed defendant redeems from the foreclosure sale if the purchaser has been in possession of the property for more than 6 months.

(f) Nothing contained in this Section affects any existing right to relief from a void order or judgment, or to employ any existing method to procure that relief.

(Source: P.A. 100-1048, eff. 8-23-18; 101-27, eff. 6-25-19; 101-411, eff. 8-16-19; revised 9-17-19.)

Section 99. Effective date. This Act takes effect upon

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becoming law.